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8 **United States District Court**
9 **Central District of California**
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11 GCIU-EMPLOYER RETIREMENT
12 FUND AND BOARD OF TRUSTEES OF
13 THE GCIU-EMPLOYER RETIREMENT
14 FUND,

15 Plaintiffs,

16 v.

17 QUAD/GRAPHICS, INC.,

18 Defendant.
19

Case No. 2:16-cv-00100-ODW (AFMx)

FINAL JUDGMENT

20 Whereas, Plaintiffs GCIU-Employer Retirement Fund and the Board of
21 Trustees of the GCIU-Employer Retirement Fund (collectively, “ERF”) commenced
22 this action against Defendant Quad/Graphics, Inc. (“Quad”) under the Employee
23 Retirement Income Security Act of 1974 (“ERISA”), § 1001 *et seq.* to (1) collect
24 interim withdrawal liability payments due under 29 U.S.C. §§ 1399(c)(2), 1401(d),
25 1132(g)(2) and 1145; (2) to collect unpaid contributions pursuant to 29 U.S.C. § 1145;
26 and (3) comply with a request for information pursuant to 29 U.S.C. § 1399(a);

27 Whereas, on May 8, 2017, after having considered ERF’s motion for partial
28 summary judgment and Quad’s motion for summary judgment on all claims, the Court

1 issued an Order Granting Plaintiffs' Motion for Partial Summary Judgment, Denying
2 in Part Defendant's Motion for Summary Judgment, and Dismissing ERF's 29 U.S.C.
3 § 1399(a) Request for Information Claim. (Order Granting Mot. Summ. J., ECF
4 No. 93.) For the reasons stated therein, the Order granted ERF's motion for partial
5 summary judgment on its claim to collect interim withdrawal liability payments and
6 required Quad to make eleven monthly interim contributions due on ERF's 2010
7 partial withdrawal liability assessment for the months of July 2015 through May 2016
8 in the monthly amount of \$321,151.22, for a total of \$3,532,663.42; 10% interest per
9 annum; and 20% in liquidated damages. (Order Granting Mots. Summ. J. 9–11.) The
10 Court also dismissed *sua sponte* ERF's claim against Quad for the violation of 29
11 U.S.C. § 1399(a), finding the claim moot as a result of the Court's decision. (Order
12 Granting Mot. Summ. J. 14.);

13 Whereas, on March 9, 2018, following a bifurcated bench trial and after
14 considering the parties' supplemental briefing, the Court issued Findings of Fact and
15 Conclusions of Law, finding for reasons stated therein that Quad did not owe
16 contributions to ERF for 2011 vacation entitlements at Quad facilities in Dickson,
17 Tennessee ("Dickson"), Fernley, Nevada ("Fernley"), Waukee, Iowa ("Waukee"),
18 and/or Versailles, Kentucky ("Versailles"). (Findings of Fact and Conclusions of
19 Law, ECF No. 150.);

20 Whereas, on October 29, 2019, after considering the parties' briefing on Quad's
21 Motion for Judgment on All Remaining Claims, and for the reasons stated therein, the
22 Court issued an Order Granting In Part Quad's Motion as to ERF's claim for unpaid
23 contributions at Quad's Fernley, Dickson and Waukee facilities. (Order Granting
24 Mot. J. 15–16, ECF No. 203.) The Court issued Findings of Fact and Conclusions of
25 Law, ruling that Quad owed no contributions for vacation paid at the Fernley,
26 Waukee, and Dickson facilities in 2009, 2010, and 2011 for vacation day benefits
27 awarded but not used in the prior calendar year (Order Granting Mot. J. 14–15.) The
28 Court also granted judgment to ERF for unpaid contributions due to ERF for the

1 Versailles facility in the principal amount of \$15,131.09 based on Exhibit 1041
2 (\$6,092.75 on 2008 unused vacation; \$5,005.13 for 2009 unused vacation, and
3 \$4,033.21 for 2010 unused vacation), 10% simple interest per annum until paid, and
4 20% in liquidated damages totaling \$3,036.22. (Order Granting Mot. J. 10–11.); and

5 Whereas, the Court also concluded in its October 29, 2019 Order that (1) ERF
6 was entitled to its attorney’s fees and costs pursuant to 29 U.S.C. § 1132(g)(2)(D)
7 (“the court shall award the plan . . . reasonable attorney’s fees and costs of the action,
8 to be paid by the defendant”); (2) ERF is entitled to recover the sums charged by its
9 auditors plus any additional costs to date; and (3) the recoverable audit costs shall be
10 submitted for the Court’s consideration by application once a judgment is issued;

11 It is therefore **ORDERED, ADJUDGED, and DECREED** as follows:

12 1. ERF is awarded \$3,532,663.42, plus 10% interest per annum and
13 liquidated damages of 20% on its interim withdrawal liability payments claim;

14 2. The Court **DISMISSES WITH PREJUDICE** ERF’s request for
15 information claim under 29 U.S.C. § 1399(a);

16 3. The Court enters **JUDGMENT in favor of Quad** on the following
17 delinquent contribution claims under 29 U.S.C. § 1145:

18 a. ERF’s claims for delinquent contributions on 2011 vacation entitlements
19 at the Versailles, Dickson, Fernley, and Waukee facilities;

20 b. ERF’s claims for delinquent contributions on 2008 unused vacation, paid
21 in 2009, at the Dickson, Fernley, and Waukee facilities;

22 c. ERF’s claims for delinquent contributions on 2009 unused vacation, paid
23 in 2010, at the Dickson, Fernley, and Waukee facilities;

24 d. ERF’s claims for delinquent contributions on 2010 unused vacation, paid
25 in 2011, at the Dickson, Fernley, and Waukee facilities; and

26 4. The Court enters **JUDGMENT in favor of ERF** on its delinquent
27 contribution claim under 29 U.S.C. § 1145 for 2008, 2009 and 2010 allotted but
28 unused vacation (and personal) days, paid in 2009, 2010, and 2011 respectively, at the

1 Versailles facility, and awards ERF unpaid contributions of \$15,131.09 in principal,
2 10% simple interest per annum (to be calculated on the \$6,092.75 owed in
3 contributions for the 2008 allotted but unused vacation paid in January 2009;
4 \$5,005.13 owed in contributions for the 2009 allotted but unused vacation paid in
5 January 2010, and \$4,033.21 owed in contributions for the 2010 allotted but unused
6 vacation paid in January 2011) until paid; and 20% liquidated damages in the amount
7 of \$3,036.22; and

8 5. ERF is entitled to recover the sums charged by its auditors plus any
9 additional costs incurred to date, and attorneys' fees and costs under 29 U.S.C.
10 § 1132(g)(2)(D), which shall be submitted for the Court's consideration by
11 application.

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13 The Clerk of the Court shall close the case.

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15 **IT IS SO ORDERED.**

16
17 November 19, 2019

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20 **OTIS D. WRIGHT, II**
21 **UNITED STATES DISTRICT JUDGE**
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